



CITY OF KIRKLAND

Department of Public Works

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Rob Jammerman, Development Engineering Manager
Pam Bissonnette, Interim Public Works Director

Date: November 18, 2013

Subject: ONE-YEAR EXTENSION OF THE NORTSHORE UTILITY DISTRICT FRANCHISE AGREEMENT

RECOMMENDATION:

It is recommended that the City Council approves the attached resolution that authorizes the City Manager to sign a one year extension to the Northshore Utility District (NUD) Franchise Agreement.

BACKGROUND DISCUSSION:

NUD provides water and sewer service to about 45% of the City. A Franchise Agreement gives NUD the authority to own and operate their water and sewer utilities in the Kirkland public right-of-way. The current Franchise Agreement has a five-year term. It is set to automatically rollover for an additional five years on January 1, 2014 unless either party gives written notice of non-renewal. If a non-renewal notice is given, the Franchise Agreement will expire in five years.

Staff is recommending that we extend the Franchise Agreement for one year. During this one-year extension, representatives from NUD and the City will draft some amendments to the Agreement and present a new Franchise Agreement to the City Council and the NUD Board of Commissioners by the end of 2014. NUD has agreed to the one-year extension amendment. A copy of the proposed Amendment signed by the NUD General Manager is included as Exhibit A.

c: William Evans, Assistant City Attorney

Attachments (2)

RESOLUTION R-5021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN AMENDMENT TO THE FRANCHISE GRANTED TO NORTHSORE UTILITY DISTRICT PURSUANT TO ORDINANCE NO. 4141 AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT.

WHEREAS, the City of Kirkland ("City") granted a franchise to the Northshore Utility District ("NUD") on October 11, 2008, ("Agreement") for the purpose of allowing NUD to use City right of way for its infrastructure; and

WHEREAS, both the City and NUD would like to propose amendments to the Agreement before the next five year term provided by Section 8 of the Agreement begins; and

WHEREAS, pursuant to Section 8, the next five year term begins on January 1, 2014, which does not leave enough time to negotiate the proposed amendments; and

WHEREAS, the City and NUD agree amending the Agreement to allow for a year of negotiations before another five year term begins is in the interest of both parties;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is authorized and directed to execute an amendment to the Agreement substantially in the form of the attached Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of December, 2013.

Signed in authentication thereof this ____ day of December, 2013.

MAYOR

Attest:

City Clerk

AMENDMENT TO THE FRANCHISE AGREEMENT GRANTED TO NORTHSORE UTILITY
DISTRICT PURSUANT TO CITY OF KIRKLAND ORDINANCE #4141

This amendment to the franchise granted to the Northshore Utility District ("NUD") by the City of Kirkland ("City") on October 11, 2008 ("Agreement") is entered into this ____ day of November by and between the City and NUD; and

WHEREAS, both the City and NUD would like to propose amendments to the Agreement before the next five year term provided by Section 8 of the Agreement begins; and

WHEREAS, pursuant to Section 8, the next five year term begins on January 1, 2014, which does not leave enough time to negotiate the proposed amendments; and

WHEREAS, the City and NUD agree amending the Agreement to allow for a year of negotiations before another five year term begins is in both parties interest,

NOW THEREFORE, by their signatures below the City and NUD agree as follows:

1. Section 8 of the Agreement is amended as follows:

Section 8. Franchise Term. Subject to the provisions of Section 9 and 10 below, this Franchise is and shall remain in full force and effect from January 1, 2009 until December 31, 2014, provided that on January 1, 2015, and on January 1 every five (5) years thereafter, the term shall automatically be extended for an additional five (5) years, unless either NUD or the City gives the other party written notice of non-renewal prior to any such renewal date, in which case this Franchise shall terminate five (5) years after such renewal date; and provided further, however, NUD shall have no rights under this Franchise nor shall NUD be bound by the terms and conditions of this Franchise unless NUD shall, within thirty (30) days after the passage date of the Ordinance, file with the City its written acceptance of this Franchise, in a form acceptable to the City Attorney. On any renewal date, the City has the option of extending the term for more than 5 years but all subsequent renewal dates would remain automatically five (5) years unless the City again opted to extend any of them for more than five (5) years.

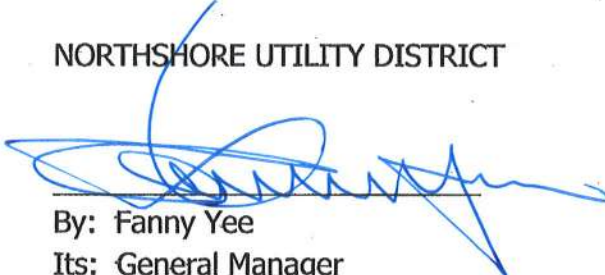
2. The intent of this amendment is only to effect a one year extension of the Agreement. The reproduction of the entirety of Section 8 is not intended to change the existing relations between the parties, create new obligations or require repetition of any duties.

3. Except as modified herein, all terms and conditions of the Agreement remain in full force and effect.

CITY OF KIRKLAND

NORTHSHORE UTILITY DISTRICT

By: Kurt Triplett
Its: City Manager


By: Fanny Yee
Its: General Manager